



# Corporation of the Municipality of Calvin

## Council Resolution

Date: May 14, 2024

By-Law 2024-29

Resolution Number: 2024-192

Moved By: Councillor Grant

Seconded By: Councillor Latimer

### WHEREAS,

In accordance with Part V.1-Accountability and Transparency of the Municipal Act, 2001, c25; 223.2 (1) A municipality shall establish codes of conduct for members of the council of the municipality and of its local boards. 2017, c. 10, Sched. 1, s. 18.

### AND WHEREAS,

The Ad Hoc Code of Conduct Committee having consulted with the Integrity Commissioner bring forth to Council as a whole this By-Law;

**NOW THEREFORE BE IT RESOLVED THAT** the Council of the Municipality of Calvin ratifies the attached By-Law 2024-29 as follows:

1. That the Mayor and CAO are designated as the Signing Officers and are authorized to execute on behalf of the Corporation of the Municipality of Calvin.
2. That the attached be hereto and form part and parcel of this By-Law.
3. That By-Law 2023-009 and any other By-law inconsistent with this by-law is hereby repealed.
4. This By-Law shall be enacted and in effect upon the signing thereof.

Results: Carried

<u>Member of Council</u>	<u>In Favour</u>	<u>Opposed</u>
Grant	<input type="checkbox"/>	<input type="checkbox"/>
Latimer	<input type="checkbox"/>	<input type="checkbox"/>
Manson	<input type="checkbox"/>	<input type="checkbox"/>
Moreton	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Gould	<input type="checkbox"/>	<input type="checkbox"/>

# The Corporation of the Municipality of Calvin

BY-LAW 2024-29

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## COUNCIL CODE OF CONDUCT

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Established in accordance with Part V.1 – Accountability and Transparency of the  
*Municipal Act, 2001, S.O. 2001, c. 25.*

**By-Law No. 2024-29**

**Being a By-law to enact a new Council Code of Conduct and repeal the old Code of Conduct, By-Law No. 2023-009**

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## **1. AUTHORITY**

The Corporation of the Municipality of Calvin Township has established this Council Code of Conduct in accordance with Part V.1 – Accountability and Transparency of the *Municipal Act, 2001*, S.O. 2001, c. 25.

## **2. PREAMBLE**

It is the goal of the Corporation of the Municipality of Calvin Township to improve the quality of public administration and governance by encouraging high standards of conduct on the part of all government or municipal officials. In particular, the public is entitled to expect the highest of standards of conduct from the members that it elects to local government. In turn, adherence to these standards will protect and maintain the reputation and integrity of the Corporation of the Municipality of Calvin Township.

The following principles shall inform the interpretation of the rules in this Code of Conduct:

- Members shall serve, and be seen to serve, their constituents in a conscientious and diligent manner.
- Members shall be committed to performing their function with integrity and to avoiding the improper use of their office, and conflicts of interest, both apparent and real.
- Members are expected to perform their duties in office and arrange their private affairs in as manner that promotes public confidence and will bear close public scrutiny;
- Members shall recognize and act upon the principle that democracy is best achieved when the operation of government is made as transparent and accountable to the public as possible; and
- Members shall seek to serve the public interest by upholding both the letter, and the spirit, of the laws of the Federal and Ontario Legislature, and the laws and policies adopted by Council.

These interpretive principles are not rules that can be the subject of a complaint or of an Integrity Commissioner inquiry.

## **3. DEFINITIONS**

In this Code of Conduct:

The terms “child”, “parent” and “spouse” have the same meanings as in the *Municipal Conflict of Interest Act*.



“Family member” includes a parent, child, spouse. It also includes any individual connected to a Member by blood, kinship, marriage, or relationship, if a reasonable person might perceive that the connection has the potential to influence the Member’s conduct or decision-making on a matter affecting the individual, whether or not the conduct or decision-making is actually affected.

“Friend” is any individual who shares with a Member a close bond of friendship, a feeling of affection, or a special kinship sufficient that a reasonable person would perceive that the relationship has the potential to affect the Member’s conduct on a matter affecting the individual, whether or not the conduct or decision-making is actually affected.

“Inquiry” means an investigation in respect of whether a Member has contravened the Code, and “investigation” and “inquiry” may be used interchangeably; “investigate” and “inquire” have corresponding meanings.

“Local board” means a local board of the Municipality other than a local board excluded by section 223.1 of the *Municipal Act*.<sup>1</sup>

“Member” means a member of Council, including the Mayor, or of a Local Board.

#### **4. STATUTORY PROVISIONS**

This Code of Conduct operates along with and as a supplement to the existing statutes governing the conduct of members. The following provincial legislation governs the conduct of members of Council:

- *Municipal Act, 2001*
- *Municipal Conflict of Interest Act*
- *Municipal Elections Act, 1996*
- *Municipal Freedom of Information and Protection of Privacy Act*
- *Human Rights Code*
- *Occupational Health and Safety Act*

The *Criminal Code* also governs the conduct of Members.

Each of these statutes is subject to its own enforcement regime, unconnected to this Code of Conduct. A violation of provincial or federal legislation is not a violation of this Code, and the Integrity Commissioner does not have jurisdiction to consider whether a Member has contravened provincial or federal legislation.

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<sup>1</sup> Section 223.1 of the *Municipal Act* excludes the following local boards from the accountability provisions in Part V.1 of that Act: (a) a children’s aid society, (b) a board of health, (c) a long-term care home committee of management, (d) a police services board, (e) a public library board, (f) a corporation established by a municipality under section 203 of the Act, and (g) any other local board as prescribed by regulation under the Act.

## **5. GIFTS AND BENEFITS**

No Member shall accept a fee, advance, gift, or personal benefit that is connected directly or indirectly with the performance of the duties of office, unless permitted by an exception listed below.

For these purposes, a fee or advance paid, or a gift or benefit provided, with the Member's knowledge, to the Member's spouse, child, parent, or staff, that is connected directly or indirectly to the performance of the Member's duties, is deemed to be a gift to the Member.

**The following are recognized as exceptions:**

- (a) Compensation authorized by law;
- (b) Gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- (c) Political contributions within lawful limits and duly reported, in the case of Members running for office;
- (d) Services provided without compensation by persons volunteering their time;
- (e) A suitable memento of a function honouring a Member;
- (f) Food, lodging, transportation and entertainment provided by provincial, and local governments or political subdivisions of them, by the Federal Government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the member is either speaking or attending in an official capacity;
- (g) Food and beverages consumed at banquets, receptions or similar events, if:
  - Attendance serves a legitimate business purpose;
  - The person extending the invitation, or a representative of the organization is in attendance;
  - And the value is reasonable and the invitation is infrequent.

In the case of exemptions (b), (e), (f) and (g), if the value of the gift or benefit exceeds \$100, or the total value received from any one source during the calendar year exceeds \$100, the member shall, within 30 days of receipt of the gift, or reaching the annual limit, file a disclosure statement with the Integrity Commissioner.

The disclosure statement must indicate:

- The nature of the gift or benefit;
- The source and date of receipt;
- The circumstances under which it was given or received;
- Its estimated value;
- What the recipient intends to do with any gift; and



- Whether any gift will at any point be left with the municipality

Any disclosure statement will be a matter of public record.

On receiving a disclosure statement, the Integrity Commissioner shall examine it to ascertain whether the gift or benefit might, in the Commissioner's opinion, create a conflict between a private interest and the public duty of the member. If the Integrity Commissioner makes that preliminary determination, the Commissioner shall call upon the Member to justify receipt of the gift or benefit.

Should the Integrity Commissioner determine that the receipt creates such a conflict, the Commissioner may direct the Member to return the gift, turn it over to the Municipality, or reimburse the donor for the value of any gift or benefit already consumed.

Except in the case of exceptions (a), (c) and (f), a Member may not accept a gift or benefit worth in excess of \$300 or gifts and benefits from one source during the calendar year worth in excess of \$300.

## **6. CONFIDENTIAL INFORMATION**

By virtue of office, Members acquire confidential information, including confidential personal information, from a variety of sources.

Confidential information includes information in the possession of, or received in confidence by the Municipality, that under the *Municipal Freedom of Information and Protection of Privacy Act* the Municipality is prohibited from disclosing or releasing.

A Member shall not use information obtained in the capacity of a Member and that is not available to the general public to further or seek to further a private interest of the Member, a family member of the Member, or a friend of the Member, or improperly to advance private interest or another individual or entity.

A Member shall not disclose by any means to anyone, except to a Member or to an employee of the Municipality or Local Board who requires the information in the course of duties, any confidential information acquired by virtue of office, in either oral or written form, except as required by law or authorized by Council or the Local Board to do so.

Members of Council should not access or attempt gain access to confidential information in the custody of the Municipality unless it is necessary for the performance of their duties and not prohibited by Council Policy.

If a matter has been discussed in a meeting or part of a meeting closed to the public in accordance with the *Municipal Act*, and the matter remains confidential, then a Member shall not disclose the content of the matter or the substance of the deliberations of the closed meeting or part. The restriction on disclosure applies until Council or committee discusses the information in meeting that is open to the public or releases the

information to the public, or unless Council has authorized the Member to disclose it.

The *Municipal Freedom of Information and Protection of Privacy Act* gives the Municipality the discretion to refuse to disclose a record that is subject to solicitor-client privilege. Privilege belongs to the Municipality and only Council, by resolution, may waive privilege. Privileged information and privileged communications are, unless Council has waived the privilege, "confidential information" under this section.

For greater certainty, under this section, in no case is information that has previously been released to the public or is otherwise in the public domain considered "confidential information."

## **7. USE OF MUNICIPAL PROPERTY, SERVICES, AND OTHER RESOURCES**

No Member shall use, or permit the use of, land, facilities, equipment, supplies, services, staff or other resources (for example, municipal owned materials, websites) of the Municipality for activities other than the business of the Municipality. No Member shall obtain personal financial gain from the use or sale of municipal-developed intellectual property (for example inventions, creative writings and drawings) computer programs, technical innovations, or other items capable of being patented, since all such property remains exclusively that of the Municipality.

## **8. ELECTION CAMPAIGN WORK**

No Member shall use the facilities, equipment, supplies, or other services of the Municipality (including newspapers and websites linked through the municipal website) for any election campaign or campaign-related activities. No Member shall undertake campaign-related activities on municipal property during normal working hours unless permitted by policy (e.g., all candidates meetings). No Member shall use the services of persons for election-related purposes during hours in which those persons receive any compensation from the Municipality.

## **9. IMPROPER USE OF INFLUENCE**

In this section, "private interest" includes both a pecuniary (financial) and a non-pecuniary (non-financial) interest. It does not, however, include an interest in a decision or matter (a) that is of general application, (b) that affects a Member, family member or friend as one of a broad class of persons, (c) that concerns the compensation of a Member, or (d) that relates to a Code of Conduct proceeding involving the member.

Quite apart from the *Municipal Conflict of Interest Act* (which deals with pecuniary interests in particular situations), a Member must not use the office of Member, or use the influence of office, to advance a private interest of the Member, a family member of the Member or a friend of the Member, or to advance improperly a private interest of any other individual or entity.



A Member must not attempt to influence the decision of another individual or entity (whether that individual or entity is part of the Municipality or is a third party) to advance a private interest of the Member, a family member of the Member or a friend of the Member, or to advance improperly a private interest of any other individual or entity.

No Member shall make a decision or exercise an official power, duty or function if the Member knows or reasonably should know that, the making of the decision or the exercise of the power, duty or function would create an opportunity to advance a private interest of the Member, a family member of the Member or a friend of the Member, or to advance improperly a private interest of any other individual or entity, whether or not the private interest is actually advanced.

No Member shall solicit or accept the prospect or promise of future advancement of a private interest in exchange for the exercise of the Member's supposed influence or in return for action or inaction in the exercise of an official function or duty.

A Member shall not give preferential treatment to any individual or entity if a reasonable person would perceive (a) that the preferential treatment was for the purpose of advancing a private interest or (b) that the preferential treatment was based on the identity of the individual or entity or the identity of a representative of the individual or entity.

This section does not prohibit a Member from properly using influence on behalf of a constituent.

## **10. BUSINESS RELATIONS**

No Member shall act as a paid agent before Council, its committees, or an agency, board or commission of the Municipality except in compliance with the terms of the *Municipal Conflict of Interest Act*.

A Member shall not refer a third party to a person, partnership, or corporation in exchange for payment or other personal benefit.

## **11. CONDUCT REGARDING CURRENT AND PROSPECTIVE EMPLOYMENT**

No Member shall allow the prospect of future employment by a person or entity to detrimentally affect the performance of the Member's duties to the Municipality.

## **12. CONDUCT AT COUNCIL AND COMMITTEE MEETINGS**

Members shall conduct themselves with decorum at Council and committee meetings in accordance with the provisions of Procedural Bylaw 2022-062.

Breaches of decorum, disrespect, and disorderly conduct should be dealt with by the presiding officer of a meeting, and shall not be the subject of a Code of Conduct complaint or an Integrity Commissioner inquiry.

The following are the only circumstances in which the Integrity Commissioner may entertain a complaint arising from conduct at a meeting:

- (a) The complaint is made by the Council or by a Local Board in relation to conduct that allegedly occurred at a meeting of Council or the Local Board.
- (b) The complaint is made by the Council in relation to conduct that allegedly occurred at a Committee meeting, if the complaint is based on a report to the Council by the Committee or its presiding officer.
- (c) The complaint is made by an individual who (i) is not a Member, (ii) was present at the meeting where the conduct allegedly occurred and (iii) following the meeting formally communicated the concern to the Council, the Committee or the Local Board, as the case may be, or satisfies the Integrity Commissioner that there was good reason not to raise the concern first with the Council, the Committee or the Local Board.

### **13. CONDUCT RESPECTING THE STAFF**

Under the direction of the CAO/Clerk, staff serve the Council as a whole, and the combined interests of all members as evidenced through the decisions of council. Members shall be respectful of the role of the staff to provide advice based on political neutrality and objectivity and without undue influence from any individual member or a faction of council.

Accordingly, no Member shall maliciously or falsely injure the professional or ethical reputation, or the prospects or practice of staff, and all members shall show respect for the professional capacities of staff.

No Member shall compel staff to engage in political activities or be subject to threats or discrimination for refusing to engage in such activities.

A Member shall not attempt to influence or to interfere, either directly or indirectly, with an employee, officer or other individual exercising functions under the *Provincial Offences Act*.

A Member shall not use or attempt to use office or influence for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering in the staff member's duties.

### **14. HARASSMENT AND DISCRIMINATION**

No Member shall engage in discrimination against or harassment of a member of the public, an employee of the Municipality or a local board, or another Member.

No Member shall abuse, bully or intimidate another individual.

In a investigating a complaint under this section, the Integrity Commissioner shall have the authority to recommend to Council such interim measures as are necessary to



protect the Complainant, to respect the rights of both Complainant and Respondent, and to ensure that integrity of the investigation.

## **15. FAILURE TO ADHERE TO COUNCIL POLICIES AND PROCEDURES**

Several of the provisions of this Council Code of Conduct incorporate policies and procedures adopted by Council. As a result, Members are required to observe the terms of all policies and procedures established by the Municipality of Calvin Township. Such policies and procedures are to be administered and enforced according to their terms. Enforcement of a policy or procedure of the Municipality does not involve this Code of Conduct or the Integrity Commissioner.

## **16. REPRISALS AND OBSTRUCTION**

Each Member shall respect the integrity of the Code of Conduct and investigations conducted under it.

No Member shall engage in any reprisal or make a threat of reprisal against a Complainant or anyone for providing relevant information to the Integrity Commissioner.

No Member shall obstruct the Integrity Commissioner in the carrying out of the Integrity Commissioner's responsibilities. Obstruction includes but is not limited to the following: destroying documents or erasing electronic communications, intimidating or taking a reprisal against a witness or complainant, and violating the confidentiality of the inquiry process.

The Integrity Commissioner may report reprisals and obstruction to Council and recommend penalties and remedial measures, even in the absence of a complaint.

## **17. ACTING ON ADVICE OF INTEGRITY COMMISSIONER**

Any written advice given by the Integrity Commissioner to a Member binds the Integrity Commissioner in any subsequent consideration of the conduct of the Member in the same matter if all the relevant facts known to the Member were disclosed to the Integrity Commissioner.

## **18. COMPLIANCE WITH COUNCIL CODE OF CONDUCT**

Members of Council are accountable to the public through the four-year election process. Between elections a Member's may, for example, become disqualified and lose the Member's seat if convicted of an offence under the *Criminal Code* or for failing to disclose a pecuniary interest under the *Municipal Conflict of Interest Act*.

A complaint alleging that a Member has contravened a specific rule in this Code of Conduct may be submitted to the Integrity Commissioner, who will determine whether to conduct an inquiry under section 223.4 of the *Municipal Act*. The Commissioner shall

not conduct an inquiry into a complaint, or an allegation in a complaint, made more than three months after the date of the act or omission alleged to contravene the Code.

Subsection 223.4(5) of the *Municipal Act, 2001* authorizes council to impose either of two penalties on a member of Council following a report from the Integrity Commissioner that, in the Commissioner's opinion, there has been a violation of the Council Code of Conduct.

1. A reprimand; or
2. Suspension of remuneration paid to the member in respect to his or her services as a member of Council or a Local Board for a period of up to 90 days.

### **Remedial actions**

The Integrity Commissioner may also recommend that Council or a Local Board take the following remedial actions:

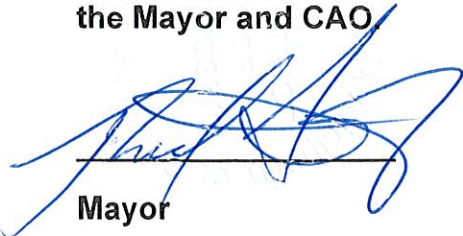
1. Removal from membership on a committee or Local Board.
2. Removal as Chair of a Committee or a Local Board.
3. Repayment or Reimbursement of moneys received.
4. Return of property or reimbursement of its value.
5. A request for apology to the Council, the complainant, or both.
6. Any other action to remedy the effect of the contravention.

### **19. POLICY REVIEW**

A review of this Code of Conduct shall be performed in the year of a municipal election in order to maintain its accuracy and application. Should the legislation that governs this Code of Conduct change or a recommendation is received from the Municipality's Integrity commissioner prior to the year of a municipal election, the Code of Conduct shall be reviewed and revised accordingly.

**By-Law No. 2023-009 is repealed and replaced by this By-Law No. 2024- 29.**

**This by-law shall come into full force and take effect as of the date of signing by the Mayor and CAO.**



Mayor



CAO

**May 14, 2024**



### Formal complaint form – Council Code of Conduct

Submit completed request to:

OR

Integrity Commissioner, c/o Municipality of Calvin Township, 1355 Peddlers Dr., RR#2, Mattawa, ON P0H 1V0

## Name \_\_\_\_\_

Address \_\_\_\_\_

Town/City \_\_\_\_\_ Postal Code \_\_\_\_\_

Home Phone \_\_\_\_\_ Cell Phone \_\_\_\_\_

Alleged Violator \_\_\_\_\_

## Date of alleged violation

Section(s) of the Code of Conduct Violated \_\_\_\_\_

### Facts constituting the alleged violation

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slightly textured appearance and is set against a dark background.

Facts continued from page\_\_\_\_

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Names and contact information of witnesses

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SIGNED\_\_\_\_\_

Date submitted\_\_\_\_\_

**For Integrity Commissioner's use only**

Date received \_\_\_\_\_

File number\_\_\_\_\_

Personal information contained on this form is collected under the authority of Part V.1 of the *Municipal Act* and will be used for the purpose of processing the complaint and conducting any inquiry.

**Municipality of Calvin**  
**By-Law 2024-29**  
**Complaint and Inquiry Procedure under the Council Code of Conduct**

**A. DEFINITIONS**

1. In this Procedure:
  - 1.1 Terms defined in the Council Code of Conduct have the same meanings here.
  - 1.2 "Complaint" is a request for an inquiry about whether a Member has contravened the Council Code of Conduct.
  - 1.3 "Complainant" is an individual who makes a complaint.
  - 1.4 "Respondent" is a Member who is the subject of the complaint.
  - 1.5 "Parties" means the Complainant(s) and the Respondent(s) and "Party" is any one of them.

**B. INFORMAL COMPLAINT PROCEDURE**

2. Any individual who believes behaviour or activity by a Member contravenes the Council Code of Conduct may address the behaviour or activity by doing one or more of the following:
  - 2.1 Inform the Member that the behaviour or activity appears to contravene the Council Code of Conduct and identify the section of the Code that appears to have been breached.
  - 2.2 Encourage the Member to acknowledge and to agree to stop the prohibited behaviour or activity and to avoid future occurrences of it.
  - 2.3 Document the incidents including dates, times, locations, other individuals present, and any other relevant information.
  - 2.4 Request the Integrity Commissioner to assist in informal discussion with the Member about the alleged behaviour or activity in an attempt to resolve the issue.
  - 2.5 If applicable, confirm to the Member the individual's satisfaction with the response of the Member, or, if applicable, inform the Member of the individual's dissatisfaction with the response.
  - 2.6 Consider the need to pursue the matter in accordance with the formal complaint procedure outlined in Part C, or in accordance with any other applicable judicial or quasi-judicial process or complaint procedure.
3. Individuals are encouraged to pursue the informal complaint procedure as the first means of remedying behaviour or an activity believed to violate the Council Code of Conduct.



4. With the consent of both the complaining individual and the Member, the Integrity Commissioner may participate in any informal process. The individual and Member are encouraged but are not required to take advantage of the Integrity Commissioner's potential role as a mediator of issues relating to an informal complaint. However, the informal process is not a precondition to pursuing the formal complaint procedure outlined in Part C.
5. The Integrity Commissioner shall not function as a mediator of issues unless each of the individual and the Member consents in writing to the Integrity Commissioner performing this function and acknowledges and consents in writing that, in the event a formal complaint is filed, the Integrity Commissioner will handle the complaint and conduct any inquiry, without objection based on the Integrity Commissioner's prior involvement as mediator. Either the individual or the Member may withdraw consent, in writing, at any time.
6. Should a formal complaint subsequently be filed, no communication made or position taken by the individual or the Member in the course of mediation shall be relied on by a Party during the complaint and inquiry process or be taken into consideration, or included in a report, by the Integrity Commissioner.

### **C. FORMAL COMPLAINT PROCEDURE**

7. Any individual who identifies or witnesses conduct by a Member that the individual believes it to be in contravention of the Council Code of Conduct may file a formal complaint as follows:
  - 7.1 The complaint shall be made in writing and be dated and signed by an identifiable individual.
  - 7.2 Where possible, the complaint shall be made using the Formal Complaint Form that is attached to the Council Code of Conduct. If the Formal Complaint Form is not used then the complaint must contain all of the information required by the Formal Complaint Form, in the same order.
  - 7.3 The complaint must state the section(s) of the Council Code of Conduct that the Complainant believes has (have) been breached.
  - 7.4 The complaint must include background (including date(s), time(s) and location(s) of conduct, supporting documentation, details and names of all persons involved, and name(s) of any witness(es)) that contains reasonable grounds for the allegation that a Member has contravened the Council Code of Conduct.
  - 7.5 The Complainant is encouraged to include relevant documents.
  - 7.6 The Complainant is not required to, but may, submit an affidavit.
  - 7.7 The complaint shall be submitted directly to the Integrity Commissioner by email, fax, mail or delivery.
  - 7.8 In the event that a complaint is sent to or left at the municipal office, the Clerk shall ensure that it is delivered unopened (or, if left unsealed, is placed in an envelope without being read and then sealed and delivered) to the Integrity Commissioner.



8. The complaint is subject to a refundable \$300 filing fee, payable to the Municipality before the complaint may be reviewed by the Integrity Commissioner. The Complainant must pay the fee to the Clerk, who will issue a receipt. The Complainant must provide a copy of the receipt, as proof of payment of the filing fee, to the Integrity Commissioner. A completed complaint includes both a Formal Complaint Form and proof of payment.
9. Upon the completion of an inquiry, if the Integrity Commissioner reports to Council that, in the Integrity Commissioner's opinion, a Member who is the subject of the complaint has contravened a provision of the Code of Conduct, then the Clerk shall forthwith refund the Complainant's filing fee.

***Integrity Commissioner's Classification and Decision to Conduct an Inquiry***

10. The Integrity Commissioner may not help anyone to draft the content of a complaint but the Commissioner may for any reason

- (a) invite a Complainant to clarify, or

- (b) permit a Complainant to amend or resubmit

any complaint, including a complaint that does not meet the requirements of this Complaint and Inquiry Procedure. The complaint is deemed to be received by the Commissioner when it is clarified, amended or resubmitted, and from that point the complaint consists of the amended complaint, the resubmitted complaint, or the original complaint plus amendments or plus clarifications, as the case may be.

11. Upon receiving the complaint, the Integrity Commissioner will conduct an initial classification to determine whether the complaint is within the Commissioner's jurisdiction and whether the Commissioner should commence an inquiry.

- 11.1 The complaint, or part of it, lies outside the Commissioner's jurisdiction if the subject matter of the complaint, or part, relates more properly to another law or to other complaint process or dispute resolution procedure.

- 11.2 The Commissioner shall only commence an inquiry into a complaint, or part of it, that on its face contains allegations that if substantiated would constitute a breach of one or more provisions of the Council Code of Conduct, and then only in relation to such provision(s).

- 11.3 The Commissioner has the discretion to decline to commence an inquiry if on its face the complaint appears to be frivolous, vexatious or not made in good faith, and subsequently the Commissioner may terminate an inquiry if at any time the Commissioner forms the opinion that the complaint is frivolous or vexatious or that the Complainant is not acting in good faith.

- 11.4 If the Complainant is a Member, where the Integrity Commissioner declines to commence or terminates an inquiry on the ground that the complaint is frivolous or vexatious or that the Complainant is not acting in good faith, the Integrity Commissioner may report that fact to Council and name the Member.

- 11.5 The Integrity Commissioner has the discretion to decline to commence an inquiry, and subsequently the Commissioner may terminate an inquiry at any time, if the

Commissioner forms the opinion that the subject matter of the complaint, or part of it, relates more properly to another law or policy or is more appropriately addressed under another other complaint process or dispute resolution procedure.

- 11.6 If the complaint or part relates to a matter that is already subject to another process, including but not limited to an action or application, a human rights complaint, an arbitration hearing, or another court or tribunal proceeding, then the Integrity Commissioner may, in the Integrity Commissioner's sole discretion, decline to conduct an inquiry, terminate an inquiry, or suspend an inquiry pending the result of the other process.

### ***Settlement, Withdrawal and Other Opportunities for Resolution***

12. Following receipt of a formal complaint, or at any time during an inquiry:

- 12.1 At the request of a Party or on the Commissioner's own initiative, where the Integrity Commissioner believes that an opportunity to resolve the matter may be successfully pursued without starting or continuing an inquiry, and both the Complainant and the Respondent agree, then Commissioner may pause or delay the inquiry to allow the Parties to achieve a resolution. Dialogue of the Parties in pursuit of potential resolution is subject to their ongoing, voluntary, mutual consent. A Party may withdraw consent at any time. Should consent be withdrawn or should the attempt at resolution otherwise cease, then the Integrity Commissioner shall end the pause or delay and resume the application of this Procedure.
- 12.2 Should the Parties pursue potential resolution, the Integrity Commissioner shall not function as a mediator of issues unless each Party consents in writing to the Integrity Commissioner performing this function and acknowledges and consents in writing that, in the event a resolution is not achieved, the Integrity Commissioner shall handle the complaint and conduct an inquiry, without objection based on the Integrity Commissioner's prior involvement as mediator. Either Party may, in writing at any time, withdraw consent to the Integrity Commissioner's mediation function.
- 12.3 If a complaint is withdrawn before the inquiry commences, or is settled or informally resolved at any time, then the Commissioner shall not report on it to Council except as part of a general report on the Commissioner's activities that does not identify the Parties to or the subject matter of any specific complaint.
- 12.4 If a complaint is withdrawn during the inquiry but before the inquiry ends, then the Commissioner may, but is not required to, report to Council on the inquiry. In making a determination whether to report to Council, the Commissioner shall consider the Parties' views on whether a report to Council should be made.
- 12.5 No communication made or position taken by a Party in the course of pursuing a resolution or participating in mediation shall be relied on by a Party during the inquiry or be taken into consideration, or included in a report, by the Integrity Commissioner.



### ***Inquiry***

13. Within five business days after receiving the complaint, the Integrity Commissioner shall decide whether to conduct an inquiry into the complaint or part of it.
14. Where the Integrity Commissioner decides not to conduct an inquiry, the Commissioner shall issue to the Complainant and to any identifiable Respondent(s) a Notice of Determination not to Conduct Inquiry. The Notice shall include the complaint and explain the decision not to conduct an inquiry. No Notice shall be issued if the complaint is withdrawn before the Integrity Commissioner makes the decision.
15. Except where the Integrity Commissioner exercises powers under sections 33 and 34 of the *Public Inquiries Act*, the inquiry process shall be as follows:
  - 15.1 Without identifying the Complainant(s), the Respondent(s) or the circumstances, the Integrity Commissioner shall give notice to the Clerk that an inquiry is being commenced.
  - 15.2 The Integrity Commissioner shall, the same day, issue to the Parties a Notice of Inquiry that includes a copy of the complaint and complaint materials, identifies the issues and allegations that will be the subject of the inquiry, and identifies any issues and allegations raised by the complaint that will not be considered in the inquiry. The Notice will include an invitation to the Respondent(s) to respond in writing within seven business days.
    - (a) To protect the right of a full and fair opportunity to respond, the Respondent shall be given the entire complaint, including the Complainant's name, but personal information (such as home address, and personal phone and email) of the Complainant shall be redacted.
    - (b) In exceptional circumstances and only where the Integrity Commissioner is satisfied that a fear of intimidation or reprisal is well-founded, the Integrity Commissioner may redact information that would identify the Complainant or a witness, provided that the Respondent receives sufficient disclosure to understand the allegation(s) and to receive a full and fair opportunity to respond.
  - 15.3 Within three business days after receiving the Respondent's response, if any, the Integrity Commissioner shall send it to the Complainant with an invitation to reply within seven business days.
  - 15.4 Within three business days after receiving the Complainant's reply, if any, the Integrity Commissioner shall send it to the Respondent.
  - 15.5 In addition to the complaint, response and reply, the Parties are free to make additional written submissions to the Commissioner at any time during the inquiry.
  - 15.6 The Commissioner shall share a Party's response, reply, other submission, or other written argument with every other Party.
  - 15.7 After reviewing the complaint, the response and the reply, the Commissioner may speak to anyone, access and examine any other documents or electronic

materials, and may enter any municipal work location relevant to the complaint for the purpose of inquiry and potential resolution.

- 15.8 Within 45 calendar days after the complaint is received, or such longer period as the Commissioner deems necessary (but in any event not more than 90 calendar days after the complaint is received), the Commissioner shall draft a report containing the findings of the inquiry, including draft conclusions about whether the Respondent(s) contravened the Council Code of Conduct and, where applicable, recommendations to Council.
  - 15.9 If the draft report contains a proposed finding that a Respondent contravened the Council Code of Conduct, or did not contravene the Council Code of Conduct but engaged in conduct that was blameworthy, then the Commissioner shall submit the draft report (minus the Recommendations section) to the Respondent for representations and comments within seven business days. A Respondent's representations and comments in response to a draft report are not subject to being shared with another Party.
  - 15.10 Within five business days after receiving the representations and comments of the Respondent, and taking them into account, the Integrity Commissioner shall finalize the report and deliver it to the:
    - (a) Clerk, for delivery to Council.
    - (b) Complainant(s).
    - (c) Respondent(s).
16. Subject to paragraph 15.8, the Commissioner has the discretion to extend any of the time frames and deadlines in this Complaint and Inquiry Procedure..

***Report to Council and Recommendation***

17. Upon receipt of a report, the Clerk shall place it on the next regular agenda of Council.
18. Where a report states the Integrity Commissioner's opinion that a Respondent has contravened the Council Code of Conduct:
  - 18.1 The Integrity Commissioner is not required to include in the report a recommended penalty, as the *Municipal Act* makes Council responsible to determine whether to impose a penalty.
  - 18.2 The Commissioner may recommend remedial actions that are not punitive.
  - 18.3 If the Integrity Commissioner is of the opinion that the contravention was trivial or committed through inadvertence or an error of judgment made in good faith, or occurred despite the Respondent taking reasonable measures to prevent it, then the report shall so state.
  - 18.4 The Respondent shall have the right of reply when the report is considered by Council.



19. If the Integrity Commissioner is of the opinion that a Respondent did not contravene the Council Code of Conduct but the Respondent's conduct was blameworthy or otherwise deserving to be brought to Council's attention then the report shall so state.
20. If the Integrity Commissioner is of the opinion that the inquiry has revealed the need for an amendment to the Council Code of Conduct, this Procedure or municipal policy, then the report shall so state. The report may include such other recommendations as the Commissioner considers appropriate.
21. The Integrity Commissioner may make interim reports to Council where necessary and as required, including to address any instances of interference, obstruction, delay, reprisal retaliation associated with the inquiry.

#### ***Confidentiality to Ensure a Fair Process***

22. To ensure that an inquiry is conducted (or that a complaint is settled or informally resolved) in a fair manner that respects the rights of the Complainant, the Respondent and witnesses, until the final report is delivered to Council the Parties shall maintain the confidentiality of the complaint process, including but not limited to the confidentiality of the complaint, responses, replies and other communications from a Complainant, a Respondent and the Integrity Commissioner.
23. If a Complainant (whether or not the Complainant is a Member) discloses information about a complaint or inquiry then the Integrity Commissioner may take that fact into account in exercising discretion before declining to commence or terminating an inquiry on the ground that the complaint is frivolous or vexatious or the Complainant is not acting in good faith.
24. The following paragraphs apply where a Member (whether or not the Member is a Complainant, a Respondent, a witness or uninvolved) discloses information about a complaint or an inquiry:
  - 24.1 Section 7 of the Council Code of Conduct prohibits the disclosure of confidential information. Information about a complaint or an inquiry, including but not limited to the information referred to in section 22 of this Procedure, is deemed to be confidential information under section 7 of the Council Code of Conduct. Consequently, a Member who discloses such information contravenes section 7 of the Code.
  - 24.2 Section 17 of the Council Code of Conduct prohibits a Member from engaging in any reprisal or making a threat of reprisal against a Complainant or anyone for providing relevant information to the Integrity Commissioner. If the disclosure of information about a complaint or an inquiry constitutes a reprisal or a threatened reprisal, then the Member has contravened section 17.
  - 24.3 Section 17 of the Council Code of Conduct also states that no Member shall obstruct the Integrity Commissioner in the carrying out of the Integrity Commissioner's responsibilities. Obstruction includes but is not limited to violating the confidentiality of the inquiry process. By obstructing, a Member is contravening section 17 of the Code.
25. Where the Integrity Commissioner is of the opinion that a Member's conduct in relation to an inquiry may have contravened section 7, section 17, or another section of the Council Code

of Conduct, the Commissioner shall give the Member an opportunity to reply in writing to the allegation that the Council Code of Conduct was contravened. After considering any reply by the Member, the Commissioner shall report the matter to Council pursuant to section 21 of this Procedure. The report shall include the Commissioner's opinion whether the Code was contravened. Sections 17 through 20 of this Procedure apply to such a report.

26. If the disclosure of information about a complaint or inquiry makes it impossible, in the Integrity Commissioner's opinion, to conclude a fair and proper inquiry that respects the rights of the Parties then the Integrity Commissioner shall report that opinion to Council.

***No Complaint Processing and No Report Prior to Municipal Election***

27. Starting on nomination day in the year of a regular election, the processing of complaints, the conduct of inquiries and the issuance of reports is subject to the restrictions established by section 223.4 of the *Municipal Act*.

***Public Disclosure***

28. Once an Integrity Commissioner report has been considered by Council in an open meeting, the document is in the public domain. All reports from the Integrity Commissioner to Council will be made available to the public on the Municipality's Website on a single Web page that is easily accessible. After four years, a report shall be removed from the Web page and shall be publicly available from the Clerk upon request.